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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,374	07/11/2003	Chao-Mu Chou	BHT-3092-374	2248
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BRUCE H. TROXELL SUITE 1404 5205 LEESBURG PIKE FALLS CHURCH, VA 22041				
EXAMINER SAKRAN, VICTOR N				
ART UNIT 3677		PAPER NUMBER		

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/617,374

Applicant(s)

CHOU, CHAO-MU

Examiner

VICTOR N SAKRAN

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 10-15 and 19 is/are rejected.  
7) ☒ Claim(s) 16-18 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10, is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson U. S. Patent No. 509,129 (newly cited), see Figures 1-6.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 10-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson '129 in view of Cook U. S. Patent No. 1,125,067 (of record). Johnson discloses Applicant's claimed combination of an elongated clamping device assembly comprising a first plate (2) having substantially crescent-shaped cross section with exterior and interior surfaces and a second plate (3) having a substantially crescent-shaped cross section with interior and exterior surfaces, wherein the interior surface of the first plate faces the interior surface of the second plate, see Figures 1-6 except that the reference to Johnson does not disclose a handle or a plate formed on the exterior surfaces of each plate. Cook teaches the use of a handle (19) integrally formed on the exterior surface of locking plate (17), see Figures 3, 4, 6, and page 1, column 2, lines 83-93, and to provide the exterior surface of the first and second plates in Johnson with a handle or plate in the manner taught, disclosed and suggested by Cook, it would have been obvious to one having ordinary skill in the art at the time the invention

was made, especially, since the use of a handle in an apparatus is conventional and well known within the art.

AS to the particular location of the handle and/or the arrangement selected of an elements is considered to be no more than an obvious matter of design choice to one having ordinary skill within the art, especially, since it has been held that rearranging pa an invention is involves only routine skill in the art. See *In Re Japikse*, 86 USPQ 70.

Claims 10, and 13-15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Moorman U. S. Patent No. 6,047,441 (of record) in view of Johnson '129.

Moorman discloses Applicant's claimed combination of a shut-type apparatus comprising first and second plates formed from resilient plastic material, wherein each of said plates having a concave-shaped cross section, each of said plates having an interior and exterior surfaces, wherein the interior surface of one plate faces the interior face of the second plate, one of said plates having a first connector member (30) and the second plate having a second connector member (50), said first connector member defining projection or tenon means and said second connector member defining groove means, said connectors are adapted for securing said plates together; see Figures 1-7; the abstract; column 3, lines

13-14, 41-53; column 4, lines 19-21, and 45-49, except that the reference to Mooman is silent about the particular shape of its plates. Johnson teaches the use of first and second plates, each of said plates having a crescent-shaped cross section, see Figures 1-6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the shape of each plate in Mooman, such as each plate having crescent-shaped cross section in the manner taught, disclosed and suggested by Johnson.

Furthermore, the particular shape of the of the first and second plates is also considered to be no more than a matter of design choice obvious to one having ordinary skill within the art at the time the invention was made, especially, since it has been held that the particular change in shape of an element in a prior art device is such a change considered no more than an obvious matter of design choice to one having ordinary skill within in the art. See *In Re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1954).

Claim 19, is rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claims 10 and 13-15, above, and further in view of Rampolla et al U. Patent No. 5,062,189 who teaches the use of a slider member in a shut-type apparatus including first and second plates (32); see Figures 5-9; column 4, lines 60-68; column 5, lines 6-14, and to further provide such structure in Moorman by merely providing its shut-type apparatus with a slider for tightly securing its plates together in the manner taught, disclosed and suggested by

Rampolla et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made, especially, since such modification involves only routine skill in the art.

Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom; see *In re Preda*, 401 F2d 825, 826, 159 USPQ 342,344 (CCPA1968).

Claims 16-18, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 16, 2004

  
VICTOR N SAKRAN  
Primary Examiner  
Art Unit 3677